

MOUNTAIN COUNTIES WATER RESOURCES ASSOCIATION

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APRIL 2, 1996

MEMORANDUM

To: Board of Directors

From: Chris Williams

Re: Regional Council of Rural Counties Participation
In the Bay-Delta Proceedings

This is to report on the RCRC meeting I attended on March 29 on behalf of Mountain Counties. It was at this meeting that RCRC was to receive another presentation from attorney Michael Jackson and water consultant John Mills urging that they be hired to represent RCRC and the area of origin position in the SWRCB and CALFED proceedings and in negotiations with the various stakeholder and other interested groups.

After presentations by Mills and Jackson, which I will go into some detail further below, Supervisor Tom Tryon of Calaveras County gave me an opportunity to speak on behalf of Mountain Counties. I indicated that I had been there twice before to explain Mountain Counties position on the issues and to urge RCRC's coordination with our group and yet it appeared they were intent on doing their own thing. I responded to statements which had been made by the presentors that the area of origin interests had not done anything and were not only not at the table but not being represented.

I explained that our Association had been participating directly or through some of our members and that we were holding a meeting on April 12 to review whether an increased level of effort was currently called-for. I explained our efforts with Sen. Costa on SB 900 and suggested that funding of their watershed management approach could be folded into that bill, much as our Davis-Grunsky funding approach had been. I explained that, although we had much in common with RCRC's goals, some of our membership had reservations about their approach to the issues. I stated that we were concerned about political backlash on the area of origin issues from the much more heavily represented regions depending upon the approach taken.

Further, I pointed out that our groups specific and focused goal is to protect area of origin water rights and that many of our

member water districts and agencies have exercised the major role within their counties in this regard. I again urged their coordination and thanked them for their time. I unfortunately had to leave the meeting at that point so had to find out later from others that RCRC apparently went ahead and hired Jackson and Mills.

One of our members, the El Dorado County Water Agency, has two active participants on the RCRC Board, John Upton and Ray Nutting, who are supportive of the RCRC effort. I trust that our Board member, Walt Schultz, will be talking with his Board members to determine the best course of action.

I think these developments have major ramifications for the future of the Association. We will either cede the major role in this matter to RCRC, participate with RCRC, or lead the effort. There is a limited amount of money to conduct the effort and a decision has to be made as to how to spend it. I frankly think there is some reason to wonder at our purpose if RCRC gets the funding and takes the major effort in this matter.

Background

This situation deserves a quick background. As you may recall Robert Meacher, a Plumas County Supervisor, attended some of our meetings last year urging us to support his watershed protection goals. His primary message was that water exporters should be paying for watershed improvement and enhancement measures which would have the dual effect of increasing water yields and cleaning up the forests which will have fire protection benefits. He also involved Michael Jackson, an environmental attorney from Plumas County (who has represented the California Sportsfishing Protection Alliance since 1987), in his efforts and Michael lectured our Association on the concept. However, the Association did not jump at supporting the Meacher and Jackson approach.

It was not long after this that Mountain Counties had a meeting to consider participation in the SWRCB and related Bay-Delta proceedings. The membership authorized the hiring of a water rights attorney, Alan Lilly, but later decided on the advice of some of our better informed and involved members, to hold-off until we saw whether the negotiations between the CUA-AG groups yielded a practical solution to the Bay-Delta problems. This seemed prudent in light of our limited resources, which I might add have been more limited in recent years by the declining participation of our county members.

Meacher and Jackson meanwhile continued their efforts to get RCRC to fund a major participation in the relevant proceedings by raising concerns that the counties stand to lose significant area of origin water supplies if they do not become involved. Sometime during the last two months John Mills of Tuolumne County joined the efforts of Meacher and Jackson and apparently the Jackson and Mills

efforts have been financed by Plumas and Tuolumne Counties on an "interim" basis.

I must admit that I am to fault for not being more active and alert to the ramifications of these developments during the same time period, due to the death of my law office mate on January 25 and the workload and issues that have momentarily overwhelmed me.

The motivation of Jackson and Mills to be hired for the job, their strong support by Meacher, and perhaps RCRC's interest in broadening its influence, has resulted in the counties getting interested in the issue, which is admittedly something we had not been able to do.

However, I think its fair to say that they will be piggy-backing on our past efforts whether they say so or not. We did file comments with the SWRCB in February and September of 1995 and April 1 of 1996. In addition some of our members have been active in other groups which have been arguing the area of origin issues, including our members who are part of the DITAC group and the "Upstream Rightholders" group including Amador County Water Agency, Calaveras County Water District, El Dorado County Water Agency, El Dorado Irrigation District, Nevada Irrigation District, Placer County Water Agency, and the Yuba County Water Agency. Furthermore, we are working with Sen. Costa on related issues. I do not know how well other parties will differentiate between the counties of RCRC and many of the same counties and other public agencies of MCWRA.

Mills-Jackson Presentations and Materials

I have enclosed for your information selected materials which were part of the RCRC presentation. These include a budget requesting \$4,000 from each of the 25 RCRC counties to fund the Jackson-Mills efforts through June 30. Jackson estimates he will expend 1000 hours over the next 12 months for a total cost of \$175,000 and Mills estimates his average monthly costs at \$9,500.

In brief recap Mills stated that he had been surveying all the relevant forums and had found that our area of origin was not represented or at the table. He said that "you either had to have water or money to be at the table and if you are not at the table you're fair game to those who are." Mills said "we [he and Jackson] will get you a seat at the table." He went on to say that with the help of Congressman John Doolittle, who he believes will be instrumental in this whole matter, Jason Peltier, the Manager of the Central Valley Water Association, has called Mills and told him that RCRC will now be at the table.

Further, he said that Lester Snow of CALFED was about to offer RCRC participation in BDAC. In fact Mills said he did not seek a seat at the table, but rather Lester sought him out. This is

interesting as MCWRA requested and was denied participation, even after Jim Chatigny wrote a letter to Governor Wilson. He also intimated that there would be some announcement made in this regard at the upcoming ACWA meeting.

Apparently Mills is also meeting with the Sierra Nevada Alliance and plans to use the results of the SNEC report, and the George Miller-sponsored Sierra Ecosystems study to bolster the groups claims for their watershed protection goals.

The fundamental idea is that the upper watersheds have a way to "make" water through watershed management -- therefore have water -- therefore should be at the table.

He argued that the next three months was a critical time period and that substantial effort and money must be expended if the counties were not to risk losing substantial water rights.

Jackson spoke next stating that he was the [political] "left" flank and that Mills was the "right" flank in this effort. He stated that the environmental groups "would not be able to turn their back" on the watershed goals of RCRC because they had already endorsed such measures. He was negative on the need for new dams and storage. He said in some cases our areas could claim storage in existing reservoirs.

He made the argument that the public trust doctrine requires that the water remain upstream for development which encompasses instream uses. He argues that the upstream areas have just as much a right to keep water upstream for job development there as the downstream areas do, and stated that their watershed management program would stimulate significant blue collar jobs.

It was, with some difficulty, soon after Jackson finished and Meacher was leading the discussion that Calaveras Tom Tryon got me the opportunity to make the points I set forth earlier above.

I have followed-up with the enclosed letter to RCRC.

We'll need to think hard now about our future course of action, and we'll need to answer the following questions:

1. Exactly what is the jeopardy we face from the Bay-Delta proceedings, including from the SWRCB and CALFED processes, and from the AG-CUA processes?

2. Is the jeopardy greater now than it was a year ago?

3. Did we make a mistake by not getting more involved last year?

4. What can we as a group realistically and reasonably expect

to accomplish?

5. Are we doing enough? If not, what should we do and where should we concentrate our immediate efforts (CALFED)?

6. How much do we need to spend and how much can we spend?

7. Do we want to lead this effort, follow RCRC's lead, or contribute to a coordinated effort?